

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

LOCAL 8027, AFT-NEW HAMPSHIRE, AFL-CIO, RYAN)
RICHMAN, JOHN DUBE and JOCEYLN MERRILL,)
teachers in the New Hampshire Public Schools, and)
KIMBERLY GREEN ELLIOTT and MEGHAN EVELYN)
DURDEN, parents or guardians of children in the New)
Hampshire public schools.)

Plaintiffs,)

v.)

FRANK EDELBLUT, in his Official Capacity as)
Commissioner of the DEPARTMENT OF EDUCATION,)
CHRISTIAN KIM in his Official Capacity as the Chair of the)
NEW HAMPSHIRE COMMISSION ON HUMAN RIGHTS,)
and JOHN FOMELLA in his Official Capacity as)
ATTORNEY GENERAL of the State of New Hampshire.)

Defendants.)

-----)
ANDRES MEJIA,)
CHRISTINA KIM PHILIBOTTE, and)
NATIONAL EDUCATION ASSOCIATION-NEW)
HAMPSHIRE,)

Plaintiffs,)

v.)

FRANK EDELBLUT, in his official capacity only as the)
Commissioner of the New Hampshire Department of)
Education,)

JOHN M. FORMELLA, in his official capacity only as the)
Attorney General of the State of New Hampshire,)

AHNI MALACHI, in her official capacity only as the)
Executive Director of the New Hampshire Commission for)
Human Rights,)

CHRISTIAN KIM, in his official capacity)
only as the Chair of the New Hampshire Commission for)
Human Rights,)

KEN MERRIFIELD, in his official capacity only as the)
Commissioner of the Department of Labor,)

Defendants.)
)

Civil No. 1:21-cv-01077-PB

JOINT MOTION TO EXCEED PAGE LIMIT

The parties jointly move to exceed the 25-page limit under Local Rule 7.1(a)(3) for their respective memoranda of law opposing summary judgment being granted in favor of the opposing party. The parties collectively state as follows:

1. The parties seek to file their respective memoranda of law opposing summary judgment being granted in favor of the opposing party in excess of the 25-page limit under Local Rule 7.1(a)(3). The parties submit that there is good cause for this relief.

2. First, for the sake of efficiency, Plaintiffs will be filing a joint brief in this case, rather than two separate briefs. Per the Court's instructions, Plaintiffs are doing so to streamline the arguments in this case to avoid repetition and for the sake of judicial economy. Because Plaintiffs are merging the arguments of two different client groups in two different consolidated cases, they believe that an enlargement of the page limit is appropriate. Indeed, Plaintiffs' consolidated memorandum addresses two operative complaints, and this case presents multiple questions of constitutional law. Second, an enlargement is necessary because of the nature of the record created in this matter, including the number of documents produced and five depositions taken in this case. Plaintiffs plan to file a consolidated memorandum of law not to exceed 43 pages, and this motion allows any such enlargement to be reciprocal for Defendants.

3. No memorandum supports this motion because all arguments are set forth herein.
LR 7.1(a)(2)

WHEREFORE, the parties respectfully request that this Honorable Court:

A. Permit the parties to file memoranda of law in support of their respective motions for summary judgment in excess of the 25-page limit under Local Rule 7.1(a)(3), including the parties to submit memoranda no longer than 43 pages; and

B. Grant such other relief as the Court deems just and equitable.

October 3, 2023

Respectfully Submitted,

/s/ Peter J. Perroni
Peter J. Perroni, Esq. (N.H. Bar. No. 16250)
NOLAN PERRONI PC
73 Princeton Street
North Chelmsford, MA 01863
Tel.: 978.454.3800
peter@nolanperroni.com

STROOCK & STROOCK & LAVAN LLP
Charles G. Moerdler, Esq.*
David J. Kahne, Esq.*
Elizabeth Milburn, Esq.*
180 Maiden Lane
New York, New York 10038
Tel.: 212.806-5400
cmoerdler@stroock.com

Daniel J. McNeil, Esq.*
David Strom, Esq.*
American Federation of Teachers
555 New Jersey Ave. NW
Washington DC 20001
Tel.: 202.393.7472
dmcneil@aft.org
dstrom@aft.org

Mark Richard, Esq.*
Phillips, Richard & Rind P.A.
9360 S.W. 72nd Street, Suite 283
Miami, FL 33137
Tel.: 305.412.8322
mrichard@phillipsrichard.com

SELENDY & GAY PLLC
Faith Gay, Esq.*
1290 6th Avenue
New York, NY 10104
(212) 390-9000
fgay@selendygay.com

*Co-Counsel for Local 8027, AFT-New
Hampshire, AFL-CIO, Ryan Richman,
John Dube and Jocelyn Merrill,
teachers in the New Hampshire Public Schools,
and Kimberly Green Elliot and Meghan Evelyn
Durden parents or guardians of children in the
New Hampshire public schools.*

/s/ Gilles R. Bissonnette

Gilles R. Bissonnette (N.H. Bar. No. 265393)
Henry R. Klementowicz (N.H. Bar No.
21177)
SangYeob Kim (N.H. Bar No. 266657)
AMERICAN CIVIL LIBERTIES UNION OF NEW
HAMPSHIRE
18 Low Avenue, Concord, NH 03301
Tel. 603.224.5591
gilles@aclu-nh.org

/s/ Chris Erchull

Chris Erchull (N.H. Bar No. 266733)
GLBTQ LEGAL ADVOCATES & DEFENDERS
18 Tremont, Suite 950
Boston, MA 02108
Tel.: 617.426.1350
cerchull@glad.org

Jennifer Eber (N.H. Bar No. 8775)
Kayla Turner (N.H. Bar No. 270167)
DISABILITY RIGHTS CENTER-NEW HAMPSHIRE
64 N Main St, Ste 2
Concord, NH 03301-4913
Tel.: 603.228.0432
JenniferE@drcnh.org
kaylat@drcnh.org

*Co-counsel for Plaintiffs Andres Mejia and
Christina Kim Philibotte*

/s/ Morgan C. Nighan

Morgan C. Nighan (N.H. Bar No. 21196)
NIXON PEABODY LLP
Exchange Place
53 State Street
Boston, MA 02109-2835
Tel.: 617.345.1031
mnighan@nixonpeabody.com

/s/ David A. Vicinanzo

David A. Vicinanzo (N.H. Bar No. 9403)
S. Amy Spencer (N.H. Bar. No. 266617)
NIXON PEABODY LLP
900 Elm Street, 14th Floor
Manchester, NH 03101
Tel.: 603.628.4000
dvicinanzo@nixonpeabody.com
aspencer@nixonpeabody.com

William E. Christie (N.H. Bar No. 11255)
SHAHEEN & GORDON, P.A.
107 Storrs Street
P.O. Box 2703
Concord, NH 03302
Tel.: 603.225.7262
wchristie@shaheengordon.com

Emerson Sykes*
Speech, Privacy, and Technology Project
Leah Watson*
Sarah Hinger*
Racial Justice Program
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
Tel.: 212.549.2500
esykes@aclu.org
lwatson@aclu.org
shinger@aclu.org

/s/ Jason Walta

Alice O'Brien*

Jason Walta*

NATIONAL EDUCATION ASSOCIATION

1201 Sixteenth St. NW

Washington, DC 20036

Tel: 202.822.7035

aobrien@nea.org

jwalta@nea.org

Esther K. Dickinson (N.H. Bar No. 20764)

Lauren Snow Chadwick (N.H. Bar No. 20288)

Staff Attorneys

NATIONAL EDUCATION ASSOCIATION-

NEW HAMPSHIRE

9 South Spring Street

Concord, NH 03301-2425

Tel.: 603.224.7751

edickinson@nhnea.org

lchadwick@nhnea.org

Nathan R. Fennessy (N.H. Bar No. 264672)

PRETI FLAHERTY BELIVEAU & PACHIOS LLP

57 North Main Street

Concord, NH 03301

Tel.: 603.410.1500

rtoland@preti.com

Co-Counsel for National Education Association-New Hampshire

*Admitted *pro hac vice*.

Frank Edelblut, Commissioner, New Hampshire Department of Education,
Christian Kim, Chair of the New Hampshire Commission on Human Rights,
John M. Formella, Attorney General of the State of New Hampshire,
Ahni Malachi, Executive Director of the New Hampshire Commission on Human Rights,
Ken Merrifield, New Hampshire Department of Labor,

By their attorneys,

John M. Formella
Attorney General

/s/ Nathan W. Kenison-Marvin
Samuel Garland (N.H. Bar No. 266273)
Nathan W. Kenison-Marvin (N.H. Bar No. 270162)
N.H. Department of Justice
Civil Bureau
33 Capitol Street
Concord, NH 03301
Tel. 603.271.3658
samuel.garland@doj.nh.gov
nathan.w.kenison-marvin@doj.nh.gov